

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

|  |   |                                     |
|--|---|-------------------------------------|
| In Re the Application of:              | ) | Group Art Unit: 3751                |
|  | ) |                                     |
| BALL                                   | ) | Examiner: Robert M. Fetsuga         |
|  | ) |                                     |
| Serial No.: 10/732,726                 | ) | Confirmation No.: 2017              |
|  | ) |                                     |
| Filed: December 10, 2003               | ) | <u>DECLARATION OF BILL CARLSON</u>  |
|  | ) | <u>PURSUANT TO 37 C.F.R. §1.131</u> |
| Atty. File No.: 5564-152               | ) |                                     |
|  | ) |                                     |
| For: <i>"Method and Apparatus for</i>  | ) |                                     |
| <i>Assembling and Sealing Bathtub</i>  | ) |                                     |
| <i>Overflow and Waste Water Ports"</i> | ) |                                     |

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

I, Bill Carlson declare as follows:

1. I am currently employed as a designer and drafter by WCM Industries, Inc., which has an interest in the above application. WCM Industries, Inc. is comprised of Woodford Manufacturing ("Woodford") that manufactures and sells yard hydrants, wall hydrants and wall faucets and WATCO Manufacturing ("Watco") that manufactures and sells bath drains and bathtub products.

2. This Declaration is being submitted in connection with prosecution activities for the instant application. More specifically, this Declaration is submitted pursuant to 37 CFR § 1.131 in response to an Office Action dated December 9, 2008 in which U.S. Patent No. 6,192,531 to Fritz et al. ("Fritz") having a filing date, and effective prior art date, of December 1, 1999, was cited under 35 USC § 103(a) as rendering Claims 11, 12, 14 & 21-23 obvious in combination with Swiss Patent No. CH 346187 to Gebert ("Gebert"). In that Office Action, the

Examiner also combined Fritz and Gebert with U.S. Patent No. 5,745,931 to Ball ("Ball '931") and U.S. Patent No. 5,890,241 to Ball ("Ball '241") to find Claims 16-20 unpatentable.

3. This Declaration is submitted pursuant to 37 CFR § 1.131 also in response to the Office Action dated December 9, 2008 in which U.S. Patent No. 6,618,875 to Oropallo et al. ("Oropallo") having a filing date, and effective prior art date, of March 28, 2002, was cited pursuant to 35 USC § 103(a) as rendering Claims 11, 12, 14 & 21-23 obvious in combination with Gebert and Fritz.

4. Upon information and belief, in early November 1999, Mr. William T. Ball discussed the claimed invention with me, which was originally called the Schedule 40 Overflow Elbow that later was known as the "Innovator".

5. Upon information and belief, Mr. Ball asked me to model portions of the invention, for example, a threaded elbow, a wheel or flange nut and a cover plate.

6. Upon information and belief, the first concept drawings were completed by me on December 7, 1999. Exhibit A is a copy of engineering drawings I provided to Mr. Ball where my initials "BC" may be found near the date shown on the drawing.

7. Upon information and belief, it usually takes me about three to four weeks to perform modeling and drafting activities associated with a conceptual design. Therefore, Mr. Ball must have disclosed the invention to me at least in November of 1999.

8. Upon information and belief, I recall these events because WCM Industries was in the process of taking steps to upgrade the Computer Aided Design System, which occurred in 2000.

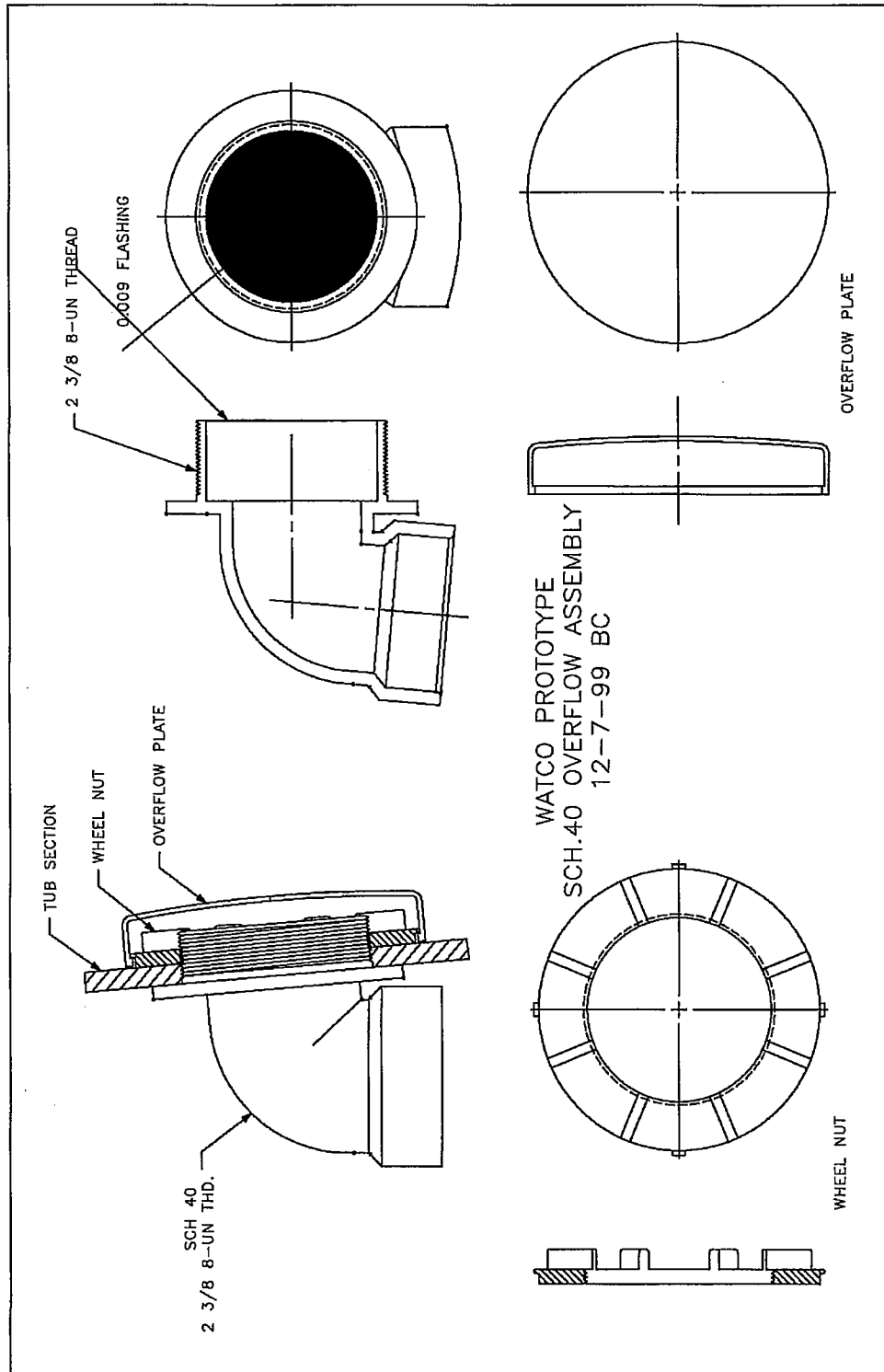
9. Upon information and belief, embodiments of the present invention were refined

and alternate embodiments were conceived after the original conception date listed above.  
Exhibit B is provided to show one alternative embodiment of the present invention that was  
invented at least about February of 2000.

10. I hereby declare that all statements made herein of my own knowledge are true  
and that all statements made on information and belief are believed to be true; and further, that  
the statements were made with the knowledge that willful false statements and the like, so made,  
are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United  
States Code, and that such willful false statements may jeopardize the validity of the subject  
application or any patent issuing thereon.

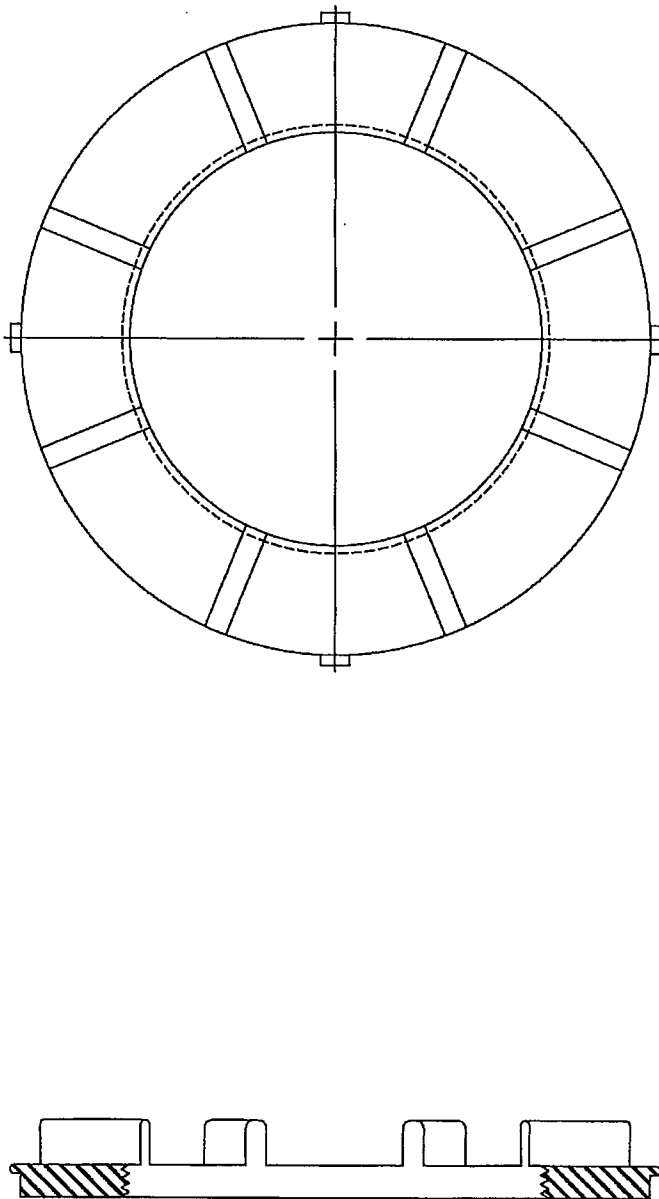
By: William L. Carlson Date: 6-9-09  
Bill Carlson

**Exhibit A**





|   |                              |  |  |     |                   |             |         |
|---|------------------------------|--|--|-----|-------------------|-------------|---------|
| NAME  | WHEEL NUT                    |  | SCALE  | 1:1 | WATCO<br>MFG. CO. | PART<br>NO. | WO_0003 |
| FOR   | SCH. 40 OVERFLOW (PROTOTYPE) |  | DRAWN  |     | REVISION          | BY          | DATE    |
| MAT'L   | X                            |  | A  |     | BC                | XXXX        | 12-7-99 |
|   |                              |  | B  |     |                   |             |         |
|   |                              |  | C  |     |                   |             |         |
|   |                              |  | D  |     |                   |             |         |
| TOLERANCE<br>UNLESS SPECIFIED                             |                              |  | DECIMALS $\pm .010$<br>TWO PLACE $\pm .003$<br>THREE PLACE $\pm 1/64$<br>FRACTIONS $\pm 1/2$<br>ANGLES $63^\circ$<br>SURFACE TEXTURE |     |                   |             |         |
| <b>WCM INDUSTRIES, INC.</b><br>COLORADO SPRINGS, COLORADO |                              |  |  |     |                   |             |         |



# OVERFLOW FLAIE

FOR SCH. 40 OVERFLOW (PROTOTYPE)

MAT'L X

WCM INDUSTRIES, INC.  
COLORADO SPRINGS, COLORADO

UNLESS SPECIFIED

DECIMALS ± .010  
TWO PLACE ± .003  
THREE PLACE ± 1/64  
FRACTIONS ± 1/2"  
ANGLES 63°

SURFACE TEXTURE 63

DRAWN

A

B

C

D

1:1



NO.

WU\_UU4

DATE

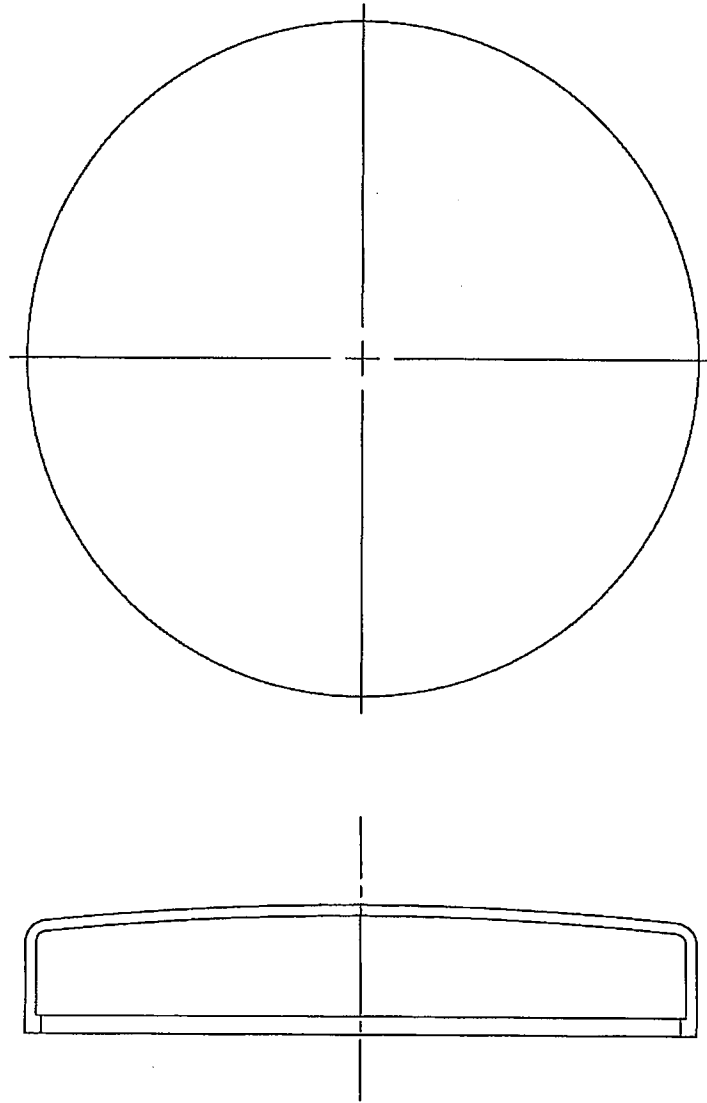
12-7-99

EC

XXXX

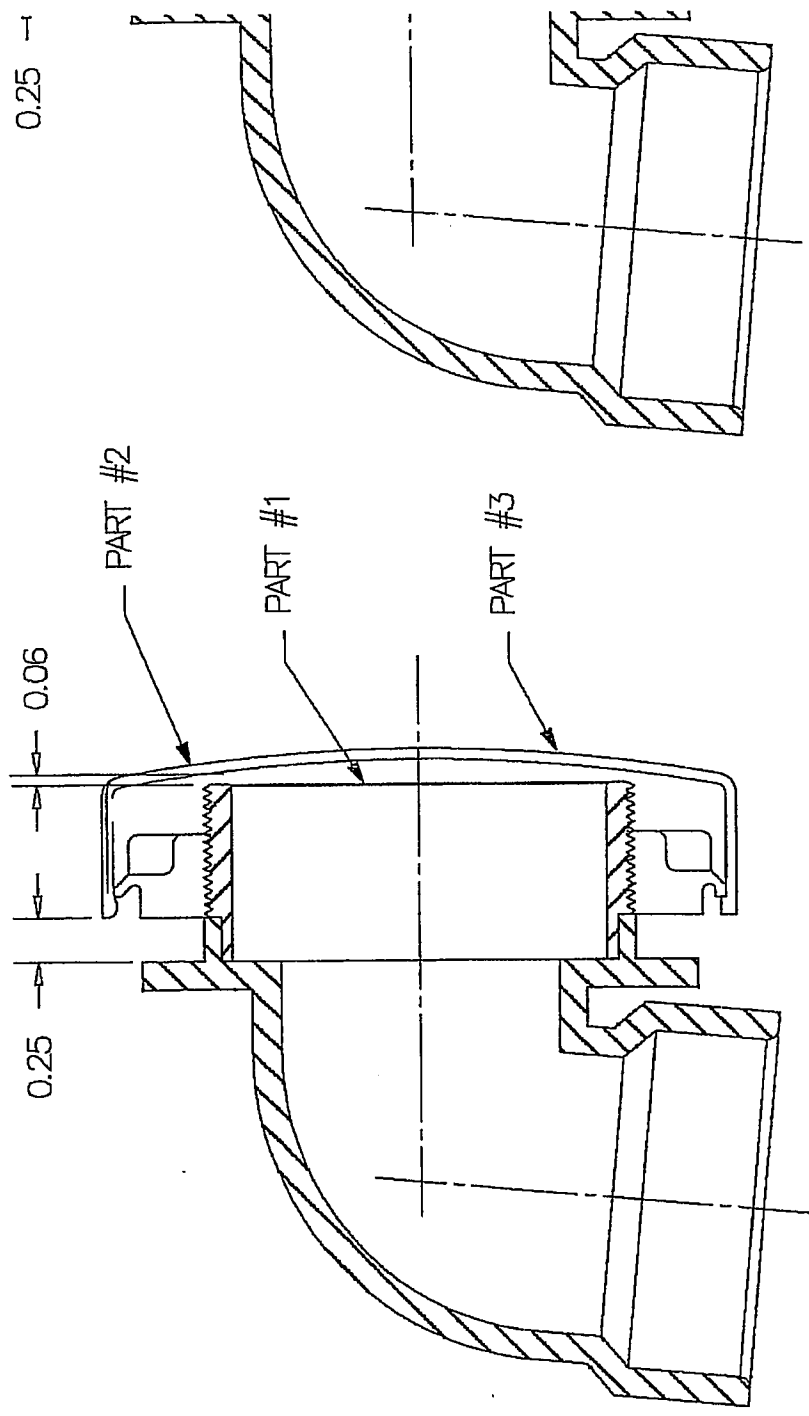
BY

BC



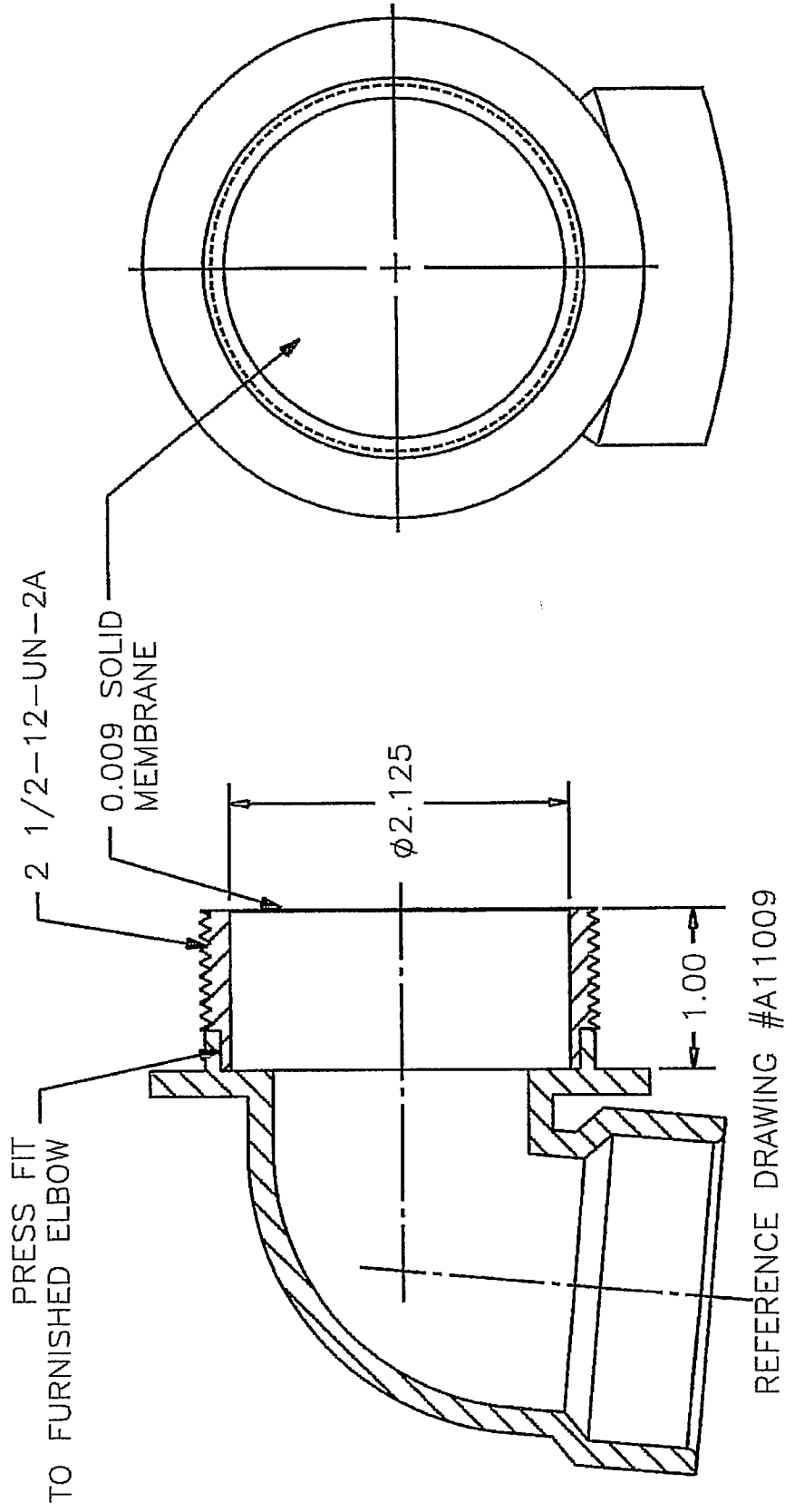


## **Exhibit B**



WATCO  
OVERFLOW ELBOW PROTOTYPE  
2/9/2000 bc

OVERFLOW  
2/9/



WOODFORD  
PART #1  
2/14/00

